THE BOMBAY TALUQDARI TENURE ABOLITION ACT, 1949.

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SCHEDULE II.

BOMBAY ACT No. LXII OF 1949.[1]

[THE BOMBAY TALUQDARI TENURE ABOLITION ACT, 1949.]

[*24th January 1950*]

An Act to abolish the taluqdari tenure in the Province of Bombay.

WHEREAS it is expedient to abolish the taluqdari tenure prevailing in certain parts of the Province of Bombay and to amend the law relating to the revenue administration of the estates held on the said tenure; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Taluqdari Tenure Abolition Act, 1949.

(*2*) It extends to the districts of Ahmedabad, Kaira, Broach and the Panchmahals as constituted immediately before the 1st day of August 1949.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

Bom. V of 1879.

(*1*) "Code" means the Bombay Land Revenue Code, 1879;

Bom. VI of 1888.

(*2*) "Taluqdars' Act" means the Gujarat Taluqdars' Act, 1888;

(*3*) "Taluqdari land" means land forming part of a taluqdari estate and includes land forming part of such estate and held by a cadet of a taluqdar's family for the purpose of maintenance;

(*4*) "Taluqdari tenure" means a land tenure on which the taluqdari land is held;

(*5*) the words and expressions used in this Act shall be deemed to have the same meaning as they have in the Code.

Abolition of taluqdari tenure and its incidents.

3. With effect from the date on which this Act comes into force,—

(*i*) the taluqdari tenure shall wherever it prevails be deemed to have been abolished; and

(*ii*) save as expressly provided by or under the provisions of this Act, all the incidents of the said tenure attaching to any land comprised in a taluqdari estate shall be deemed to have been extinguished.

Revenue surveys to be deemed to be surveys under the Code.

4. All revenue surveys or revised revenue surveys of taluqdari estates directed by the Provincial Government under section 4 of the Taluqdars' Act and all settlements made shall be deemed to have been made under Chapters VIII and VIII-A of the Code and the settlement registers and other records prepared of such surveys shall be deemed to have been prepared under the corresponding provisions of the Code.

Liability of taluqdari land to payment of land revenue.

5. (*1*) Subject to the provisions of sub-section (*2*),—

(*a*) all taluqdari lands are and shall be liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder, and

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, pp. 198-99.

(*b*) a taluqdar holding any taluqdari land or a cadet of a taluqdar's family holding any taluqdari land hereditarily for the purpose of maintenance, immediately before the coming into force of this Act, shall be deemed to be an occupant within the meaning of the Code or any other law for the time being in force.

(*2*) Nothing in sub-section (*1*) shall be deemed to affect—

(*a*) the right of any person to hold any taluqdari land wholly or partially exempt from the payment of land revenue under a special contract or any law for the time being in force;

(*b*) the right of any person to pay jama only under any agreement or settlement recognised under section 23 or under a declaration made under section 22 of the Taluqdars' Act so long as such agreement, settlement or declaration remains in force under the provisions of this Act.

All public roads, etc., not situate in wantas to vest in the Crown.

6. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on, or beside, the same, the bed of the sea and of harbours, creeks below high water mark, and of rivers, streams, nallas, lakes, wells and tanks, and all canals, and water courses, and all standing and flowing water, all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes), which are not situate within the limits of the wantas belonging to a taluqdar in a taluqdari estate shall, except in so far as any rights of any person other than the taluqdar may be established in and over the same and except as may otherwise be provided by any law for the time being in force, vest in and shall be deemed to be, with all rights in or over the same or appertaining thereto, the property of the Crown and all rights held by a taluqdar in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the Commissioner, to dispose them of as he deems fit, subject always to the rights of way and of other rights of the public or of individuals legally subsisting.

Explanation.—For the purposes of this section, land shall be deemed to be uncultivated, if it has not been cultivated for a continuous period of three years immediately before the date on which this Act comes into force.

Compensation to taluqdars for extinguishment of rights under the preceding section.

7. (*1*) Any taluqdar having any rights in such property shall be entitled to compensation in the manner provided in the following paragraphs, namely :—

(*a*) within a period of twelve months from the date on which this Act comes into force, the taluqdar shall apply in writing to the Collector stating the nature of his right, the grounds of his claim and the amount of compensation claimed by him for the extinguishment of his rights;

(*b*) the Collector shall hold a formal inquiry in the manner provided in the Code and if the Collector is satisfied that the applicant had any rights in the land and that such rights have been extinguished under the last preceding section, shall make an award in the manner prescribed in section 11 of the Land Acquisition Act, 1894, subject to the following conditions :— I of 1894.

(*i*) if the property acquired is waste or uncultivated but is culturable land the amount of compensation shall not exceed three times the assessment of the land :

Provided that if the land has not been assessed, the amount of compensation shall not exceed such amount of assessment as would be leviable in the same village on the same extent of similar land used for the same purpose;

(*ii*) if the property is land over which the public has been enjoying or acquired a right of way or any individual has any right of easement, the amount of compensation shall not exceed the amount of the annual assessment leviable in the village for uncultivated land in accordance with the rules made under the Code or if such rules do not provide the levy of such assessment, such amount as in the opinion of the Collector shall be the market value of the right or interest held by the claimant;

(*iii*) if there are any trees or structures on the land, the amount of compensation shall be the market value of such trees or structures, as the case may be;

Explanation.—For the purposes of this section, the "market value" shall mean the value as estimated in accordance with the provisions of sections 23 and 24 of the Land Acquisition Act, 1894, in so far as such provisions may be applicable.

1 of 1894

(*2*) Every award made under sub-section (*1*) shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894, and the provisions of the said Act, shall, so far as may be, apply to the making of such award.

I of 1894.

8. An appeal shall lie against an award of the Collector to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939, notwithstanding anything contained in the said Act. Appeal against the Collector's award.

Bom. XII of 1939.

9. (*1*) The Bombay Revenue Tribunal shall, after giving notice, to the appellant and the Provincial Government, decide the appeal and record its decision. Procedure before the Revenue Tribunal.

(*2*) In deciding appeals under this Act, the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

10. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal. Limitation.

IX of 1908.

11. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed. Court fees.

VII of 1870.

12. The award made by the Collector subject to an appeal to the Bombay Revenue Tribunal and the decision of the Bombay Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court. Finality of the award and decision of the Revenue Tribunal.

13. All inquiries and proceedings before the Collector and the Bombay Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code. Inquiries and proceedings to be judicial proceedings.

XLV of 1860.

14. (*1*) If any person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in any land other than those in respect of which provision for the payment of compensation has been made under section 7 and if such person proves that such extinguishment or modification amounts to the transference to public ownership of such land or any right in or over such land, such person may apply to the Collector for compensation within a period of twelve months from the date on which this Act comes into force. Method of compensation for the extinguishment or modification of any other rights.

(*2*) The Collector shall, after holding a formal inquiry in the manner provided in the Code, make an award deciding such amount of compensation as he deems reasonable and adequate. In deciding the amount of compensation, the Collector shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894. I of 1894.

(*3*) An appeal shall lie from the said award to the Bombay Revenue Tribunal.

(*4*) The provisions of sections 7 to 13 (both inclusive) shall, so far as may be, apply to the proceedings in respect of such award or appeal, as the case may be.

Rules.

15. (*1*) The Provincial Government may, by notification published in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions such rules may provide for the following matters :—

(*a*) the value of court-fee stamp payable on an appeal to the Bombay Revenue Tribunal under section 11 ;

(*b*) any other matter which is to be or may be prescribed under this Act.

(*3*) Rules made under this section shall be subject to the condition of previous publication.

Application of the Code to the taluqdari lands.

16. Subject to the provisions of this Act, the provisions of the Code apply and are hereby declared to apply to all taluqdari lands subject to the modifications specified in Schedule I.

Repeal.

17. The enactments specified in Schedule II are hereby repealed :

Provided that the repeal of the said enactments shall not in any way be deemed to affect,—

(*a*) the validity, invalidity, effect or consequences of any alienation of or any incumbrance created on a taluqdari land or of anything already done or suffered to be done under the said enactments before the date of the commencement of this Act ;

(*b*) any obligation or liability already incurred or accrued before such date ;

(*c*) any declaration made or any agreement or settlement recognised, any partition confirmed and any management of the taluqdari estate assumed under the provisions of any of the enactments hereby repealed,

and any proceedings connected with such partition or management instituted before the aforesaid date shall be continued and disposed of, as if this Act had not been passed.

SCHEDULE I.

(*See* section 16.)

Year.	No.	Short title.	Extent of modification.
1	2	3	4
1879 ...	V	The Bombay Land Revenue Code, 1879.	(1) In section 3, clause (13), after the words "the Provincial Government" the words "and includes a taluqdar" shall be inserted. (2) In section 38, after the words "unalienated portions of villages" the words "or in villages or portions of villages comprised in a taluqdari estate" shall be inserted.

Year.	No.	Short title.	Extent of modification.
1	2	3	
			(3) In section 46,— (i) after the words "any holder of alienated land" the words "or a taluqdar" shall be inserted; (ii) after the words "the said holder", the words "or taluqdar, as the case may be" shall be inserted.
			(4) In section 56,— (i) after the words "alienated holding", wherever they occur, the words "or taluqdari land" shall be inserted; (ii) for the words "such occupancy or alienated holding" wherever they occur and for the words "such occupancy or holding" the words "such occupancy, alienated holding or land" shall be substituted.
			(5) In section 57,— (i) for the words "a holding" th words "a holding or land" shall be substituted; (ii) for the words "such holding" the words "such holding or land" shall be substituted.
			(6) In section 58, after the words "share of a village" wherever they occur, the words "or of a village or portion of a village comprised in a taluqdari estate" shall be inserted.
			(7) In section 69, after the word "unalienated" the words "or taluqdari" shall be inserted.
			(8) In section 76, after the words "alienated land" the words "or any taluqdari land" shall be inserted.
			(9) In section 80,— (i) after the words "an occupancy" the words "or any taluqdari land" shall be inserted; (ii) after the word "occupant" wherever it occurs the words "or holder" shall be inserted.
			(10) In section 85, sub-section (*1*), after the words "alienated share of a village" the words "or of a village or portion of a village comprised in a taluqdari estate" shall be inserted.
			(11) In section 94A, sub-section (*1*), after the words "alienated share of a village" the words "or of a village or portion of a village comprised in a taluqdari estate" shall be inserted.
			(12) In section 111, after the word "estate" where it occurs for the first time the words "including a taluqdari estate" shall be inserted.
			(13) In section 114, the words "or in a taluqdari estate" shall be deleted.

Year.	No.	Short title.	Extent of modification.
1	2	3	4
			(14) In section 118, after the word "alienated" wherever it occurs the words "or taluqdari" shall be inserted.
			(15) In section 136, sub-section (*1*), after the words "alienated land" the words "or taluqdari land" shall be inserted.
			(16) In section 150,—
			(i) in clause (*b*), after the words "alienated holding" the words "or taluqdari land" shall be inserted;
			(ii) in clause (*f*), after the words "alienated holding" the words "or any taluqdari land" shall be inserted.
			(17) In section 153, after the words "alienated holding" wherever they occur, the words "or any taluqdari land" shall be inserted.
			(18) In section 159, after the word "holding" the words "or land" shall be inserted.
			(19) In section 181, after the words "or alienated holding" the words "or any taluqdari land" shall be inserted.
			(20) In section 214, in clause (*d*) of sub-section (*2*), after the words "unalienated land" the words "or taluqdari land" shall be inserted.
			(21) In section 216, sub-section (*1*), after the words "alienated shares of villages" the words "and villages or shares of villages comprised in taluqdari estates" shall be inserted.
			(22) In section 217, after the words "alienated village" the words "or a village or the share of a village comprised in a taluqdari estate" shall be inserted.
			(23) In section 218, after the word "alienated" wherever it occurs the words "or taluqdari" shall be inserted.

SCHEDULE II.

(*See* section 17.)

Enactments repealed.

Year.	No.	Short title.	Extent of repeal.
	2	3	4
1862	... VI	The Ahmedabad Taluqdars Act, 1862.	The whole Act.
1881	... XXI	The Broach and Kaira Incumbered Estates Act, 1881.	The whole Act.
1888	... VI	The Gujarat Taluqdars' Act, 1888.	The whole Act.